

AN ACT
D.C. ACT 24-776

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 18, 2023

To prohibit a third-party meal delivery platform from arranging to deliver a meal order from a restaurant without first obtaining an agreement with the restaurant expressly authorizing the third-party meal delivery platform to collect meal orders and deliver meals prepared by the restaurant, to prohibit the unauthorized listing of a restaurant on the application or website of a third-party meal delivery platform, to require disclosure of the fees charged by a third-party meal delivery platform, to prohibit the inclusion of an indemnification agreement in a third-party meal delivery agreement, to provide a limit on the fees a third-party meal delivery platform may charge, and to provide civil penalties and authorize civil action for violations of this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Fair Meals Delivery Act of 2022”.

Sec. 2. For the purposes of this act, the term:

(1) “Agreement” means the written contract between a restaurant and a third-party meal delivery platform required by this act.

(2) “Core delivery service” means a service that lists a restaurant and makes the restaurant discoverable on all modalities or platforms offered by a third-party meal delivery platform, including any website, mobile application, or other internet service where a third-party meal delivery platform lists restaurants and facilitates or performs the delivery through employees or independent contractors of the third-party meal delivery platform of food or beverages from restaurants to customers. The term “core delivery service” does not include any other service that may be provided by a third-party meal delivery platform to a restaurant, including advertising or other promotional services, search engine optimization, business consulting, or credit card processing.

(3) “Online order” means a food or beverage order placed by a customer through a third-party meal delivery platform for delivery or pickup from a restaurant in the District of Columbia.

(4) “Purchase price” means the menu price of an online order, excluding

taxes, gratuities, or any other fees that may make up the total cost to the customer of an online order.

(5) "Restaurant" means an establishment that is held out to and known by the public as a food-service establishment. The term includes an establishment defined in D.C. Official Code § 25-101(43) and (52).

(6) "Third-party meal delivery platform" means any website, mobile application, or other internet service that offers or arranges for the sale of food and beverages prepared by, and the same-day delivery, and the same-day delivery or same-day pickup of food and beverages from, restaurants.

(7) "URL" (Uniform Resource Locator) means a web address.

Sec. 3. Restrictions on third-party meals delivery platforms.

(a) A third-party meal delivery platform shall not arrange for the delivery of an order from a restaurant without first obtaining an agreement with the restaurant expressly authorizing the third-party meal delivery platform to collect meal orders and deliver meals prepared by the restaurant.

(b) An agreement shall not include any provision, clause, or covenant that requires a restaurant to indemnify a third-party meal delivery platform, any independent contractor acting on behalf of the third-party meal delivery platform, or any registered agent of the third-party meal delivery service for any damages or harm that may occur after the restaurant's product leaves the restaurant.

(c)(1) A third-party meal delivery platform shall not advertise or otherwise market a telephone number, website, or application software featuring or marketing a restaurant without an agreement.

(2) Upon expiration or termination of an agreement, the third-party meal delivery platform shall transfer and assign any telephone number and URL for a website used exclusively to advertise or market the restaurant to the restaurant for the restaurant's use.

(d) A third-party meal delivery platform that does not have an agreement shall not use the name, likeness, trademark, or intellectual property of a restaurant on its platform.

Sec. 4. Customer disclosure requirement.

In addition to the price of items being selected for purchase and delivery from a restaurant through a third-party meal delivery platform, the third-party meal delivery platform shall disclose to the customer, regardless of where the restaurant is located, in plain language and in a conspicuous manner, any commission, fee, or other monetary payment to be charged to the customer by the third-party meal delivery platform ("charges"):

(1) The subtotal of charges on the product page along with the price of the item as each item is selected; and

(2) The total of charges and prices before the transaction is completed and the customer is charged.

Sec. 5. Limitation on fees.

(a) Notwithstanding any other local law, resolution, rule, or regulation relating to limitations on the fees charged to restaurants by third-party meal delivery platforms, no third-party meal delivery platform may charge a restaurant a fee, commission, or charge per online order that totals more than 15% of the purchase price of the online order or totals more than 5% of the purchase price per online order where the platform does not deliver the order.

(b) The fee limits in subsection (a) of this section shall not apply to a third-party meal delivery platform that:

(1) Offers all restaurants the option to obtain core delivery service for a total fee, commission, or charge that is no more than 15% of the purchase price of the online order, without requiring the purchase of additional services; and

(2) Within 30 days of the effective date of this act, notifies all restaurants that have an existing agreement with the third-party meal delivery platform of the option described in paragraph (1) of this subsection.

Sec. 6. Third-party delivery platform; registration requirement.

A person, corporation, partnership, or association operating a third-party food delivery platform in the District of Columbia shall register with the Department of Licensing and Consumer Protection.

Sec. 7. Rules; enforcement.

(a) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement this act.

(b)(1) A violation of this act, or rule issued pursuant to this act, shall be a violation of Chapter 39 of Title 28 of the District of Columbia Official Code, enforceable by the Attorney General as an unfair or deceptive trade practice pursuant to D.C. Official Code § 28-3904.

(2) In addition to or in lieu of an enforcement action brought pursuant to paragraph (1) of this subsection, the Attorney General, in the name of the District of Columbia, shall have the exclusive authority to commence a civil action in the Superior Court of the District of Columbia, or any other court of competent jurisdiction, for damages in an amount not to exceed \$5,000 or the amount of actual damages, whichever is greater, attorney fees and costs, and injunctive or other appropriate relief for a violation of this act.


Sec. 8. Fiscal impact statement.

ENROLLED ORIGINAL

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 9. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia

~~UNSIGNED~~

Mayor
District of Columbia
January 18, 2023



COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, DC, 20004

Docket No. **B24-0228**

[] ITEM ON CONSENT CALENDAR

[X] ACTION

First Reading

[X] VOTE DATE

December 6, 2022

[] VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT


Gray, and Pinto

[X] ROLL CALL VOTE – Result

Approved

Council Member	Aye	Nay	NV	AB	Rec	Council Member	Aye	Nay	NV	AB	Rec	Council Member	Aye	Nay	NV	AB	Rec
Chairman Mendelson	X					Henderson	X					R. White	X				
Allen	X					Lewis George	X					Silverman	X				
Bonds	X					McDuffie	X					T. White	X				
Cheh	X					Nadeau	X										
Gray				X		Pinto				X							
X - Indicate Vote						AB – Absent						NV - Present, Not Voting					
												Rec - Recused					

CERTIFICATION RECORD


Secretary to the Council

1-1-23
Date

Docket No. **B24-0228**

[] ITEM ON CONSENT CALENDAR

[X] ACTION

Final Reading

[X] VOTE DATE

December 20, 2022

[] VOICE VOTE

RECORDED VOTE ON REQUEST


ABSENT

[X] ROLL CALL VOTE – Result

Approved

Council Member	Aye	Nay	NV	AB	Rec	Council Member	Aye	Nay	NV	AB	Rec	Council Member	Aye	Nay	NV	AB	Rec
Chairman Mendelson	X					Henderson	X					R. White	X				
Allen	X					Lewis George	X					Silverman	X				
Bonds	X					McDuffie	X					T. White	X				
Cheh	X					Nadeau	X										
Gray	X					Pinto	X										
X - Indicate Vote						AB – Absent						NV - Present, Not Voting					
												Rec - Recused					

CERTIFICATION RECORD


Secretary to the Council

1-1-23
Date